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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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09/152,992 09/14/98 SCHINDLER R B045

QM41/1112

MICHAEL HUREY  
KLEINBERG & LERNER  
2049 CENTURY PARK EAST  
SUITE 1080  
LOS ANGELES CA 90067

EXAMINER

BROWN, M

ART UNIT

PAPER NUMBER

3733

DATE MAILED:

11/12/98

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-10 is/are pending in the application.
- Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-10 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 5 and 8-9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Nakai.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakai in view of Wroten.

Nakai discloses in figures 1-3 a nipple cover, substantially as claimed. However, Nakai does not disclose manufacturing the nipple cover from a flexible plastic material. Wroten teaches

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in figure 1 a pacifier manufactured from a flexible plastic material. It would have been obvious to one having ordinary skill in the art at the time that the invention was that the nipple shield as disclosed by Nakai could be fabricated of a flexible plastic material as taught by Wraten in order to prevent chafing of the human nipple.

5. Claims 3-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakai in view of Larsson.

Nakai discloses in figures 1-3 a nipple cover, substantially as claimed. However, Nakai does not disclose the nipple cover being shaped as a hollow hemisphere or a plurality of holes disposed through the cover. Larsson teaches in figures 1-2 a nipple cover comprising a hemisphere shape (fig. 1) and a plurality of holes 30 disposed through the cover. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the nipple cover as disclosed by Nakai could be fabricated in the shape of a hollow hemisphere and have a plurality of holes in the cover as taught by Larsson. The hemisphere shape would allow the cover to fit the natural anatomy of a human breast. The holes would allow air to pass through the cover to diminish perspiration beneath the shield.

6. Claims 7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakai in view of Lee.

Nakai discloses in figures 1-3 a nipple cover, substantially as claimed. However, Nakai does not disclose the cover tapering in thickness near an edge of thereof or a protrusion coupled to the outer surface of the cover. Lee teaches in figure 7 a nipple cover comprising a cover that

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tapers in thickness near an edge of the cover (fig. 7) and a protrusion (fig. 7) on the cover. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the nipple cover as disclosed by Nakai could be fabricated with a taper in thickness near an edge and a protrusion as taught by Lee. The tapered edge would allow the cover to fit the human breast and allow the shield to fit flat around the breast on the user's chest. The protrusion could be used to simulate a human nipple.

*Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Imonti discloses a nipple cover. Although this reference discloses structural limitations recited in the claims, it was not used to reject any claims, in the first office action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brown whose telephone number is (703) 308-2682.

M. Brown  
November 7, 1998



**MICHAEL A. BROWN**  
**PRIMARY EXAMINER**